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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,649	(	04/19/2001	Gheorghe Cioca	2870/458	9217
26646	7590	04/22/2002			
KENYON		ON	EXAMINER		
	ROADWAY 'ORK, NY 10004			WELLS, LAUREN Q	
				ART UNIT	PAPER NUMBER
				1617	
				DATE MAILED: 04/22/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Examin r	ru.	Application No.	Applicant(s)					
## Defice Action Summary    Examin   Facing   Examin   Ex		09/838.649	CIOCA ET AL.					
Lauren Q Wells  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE I MONTH(S) FROM THE MAILING DATE Of THIS COMMUNICATION.  THE MAILING DATE OF THIS COMMUNICATION.  The period for reply specified above is list show hely (30) cays, a reply within the adaptary minimum of steep (30) days a large with the statutory minimum of steep (30) days a large with the statutory minimum of steep (30) days a large with the statutory minimum of steep (30) days a large with the statutory minimum of steep (30) days a large with the statutory minimum of steep (30) days a large with the statutory minimum of steep (30) days a large with private and steep (30) days a large with the statutory minimum of steep (30) days a large with private and steep (30) days and steep spiciation to steep spication to steep spication to steep spication of steep spication and stee	Office Action Summary							
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2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-22 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  7) Claim(s) is/are objected to.  8) Claim(s) is/are objected to.  8) Claim(s) is/are objected to by the Examiner.  10) The greating(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority under 35 U.S.C. § 119(a)-(d) or (f).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s) Notice of References Cited (PTO-892)  9 Notice of References Cited (PTO-892)  10 Notice of References Cited (PTO-892)  11 Notice of References	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>							
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## **DETAILED ACTION**

Claims 1-22 are pending.

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5, 9-13, 19-20, 22, drawn to structured water, classified in class 424, subclass 600.
- II. Claims 6-8, 14-18, 21, drawn to a method of making structured water, classified in class 423, subclass 23.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process can be used to make structured water comprising antioxidant active agents.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Estelle Tsevdos on April 5, 2002, to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is (703) 305-1878. The examiner can normally be reached on T-F (6-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie can be reached on (703) 308-4612. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

lqw April 12, 2002

